

Remarks

A. Introduction

Claims 1-7 were pending prior to entry of the preceding amendments, and *claims 1-3, 6, and 8* are pending now. The Examiner finally rejected the previously-pending claims under 35 U.S.C. §§ 112 and 103(a), contending (1) the specification fails to support the term “stationary” in respect of the first and second gas directing means and the feature of claim 7, (2) claims 1-4 are obvious in view of combined disclosures of U.S. Patent Nos. 4,409,453 to Smith and 4,480,164 to Dills, and (3) claims 5-7 are obvious in view of combined disclosures of the Smith and Dills patents and U.S. Patent No. 5,166,487 to Hurley. The Examiner additionally mandated that appropriate Terminal Disclaimers be submitted to overcome double-patenting rejections.

B. Double-Patenting Rejections

Applicant does not concede that any double-patenting rejection is necessarily appropriate in connection with the application. Nevertheless, in the August 4th Response, Applicant submitted suitable Terminal Disclaimers. Applicant accordingly requests that the double-patenting rejections be withdrawn.

C. Section 112 Rejections

At least for the reasons presented in the August 4th Response, Applicant believes the specification supports each of the previously-presented claims. However, to expedite issuance of a patent, Applicant has cancelled claim 7 and revised claims 1-3 to delete all references to the word “stationary.” As revised, independent claim 1 now recites merely that “the position of the cooking rack remains

fixed relative to the first and second gas directing means during cooking,” support for which is contained in the specification. *See, e.g.*, Application at p. 26, ll. 16-17 (cooking racks are supported by the side walls); FIG. 1; *see also* August 4th Response, pp. 5-6 (identifying additional text of the application).^{*} Applicant thus requests that the Examiner’s rejections under Section 112 also be withdrawn.

D. Section 103(a) Rejections

1. Independent Claim 1

Applicant incorporates herein the arguments in favor of patentability made in the August 4th Response. Applicant reiterates that the Smith patent teaches away from the invention of claim 1, as ***the Smith patent requires relative movement between the cooking rack and the jet plate***. *See* Smith, col. 11, ll. 11-13 (“It should be readily apparent that jet plate 124 [or 82] is moved relative to the product P to accomplish the sweeping action hereinbefore described.”). Otherwise, jets 81 ***cannot*** “sweep uniformly across the entire surface of the product” being cooked, which is designated as the “primary” object of the invention. *See id.*, col. 9, ll. 21-24; col. 4, ll. 17-20; *see also id.*, col. 3, ll. 39-45; col. 4, ll. 11-16 and 44-51; col. 9, ll. 39-44; col. 10, ll. 49-51; col. 11, ll. 14-17. ***No*** basis thus exists for the Examiner’s contention that one skilled in the art at the relevant time would have ***dismissed entirely*** the teachings of the Smith patent in favor of substituting a stationary cooking rack in the oven described therein.

^{*}Furthermore, there is no written disclosure or drawing in the application of any mechanism for moving the cooking rack during cooking. Clearly, therefore, a person skilled in the relevant art reading the specification would reasonably conclude that the inventor contemplated an arrangement wherein the rack does not move during cooking.

Applicant additionally believes the Smith patent fails to suggest other features of at least sections (h) and (i) of claim 1. As to section (i), for example, clear is that the oven of the Smith patent directs gas from the top wall (and bottom wall) of the cavity rather than from the left and right sides. This operation is exactly the *opposite* of what is recited in the claim. Nor does the Smith patent contemplate directing gas from the sides of the cavity, as doing so would disrupt the required uniformity of the sweeping action of the jets across the upper surface of the food product.

Moreover, incorporated into claim 1 are features including

- microwave waveguides for launching microwave energy from the opposing left and right sides of the oven cavity; and
- wherein the microwave energy is delivered to the oven cavity without a microwave stirrer.

Support for the first of these features appears in the original application at least on pages 46-47 and in Fig. 1, while support for the second feature is included at least in the paragraph spanning pages 48-49 of the application. As stated in that paragraph:

The microwave energy field therefore propagates through the oven cavity in an evenly distributed pattern, coupling with the food product from all directions, and providing an even electromagnetic energy distribution throughout the oven cavity *without the need for a mechanical stirrer* to propagate the electromagnetic field.

By contrast, the ovens described in both the Smith and the Hurley patents *require* use of microwave stirrers. *See* Smith, col. 6, ll. 63-65; Fig. 2 (stirrer 58c); *see* Hurley, col. 3, ll. 35-41; Fig. 1 (stirrers 20 and 22). For at least these additional reasons, Applicant requests that the Examiner's Section 103(a) rejections be withdrawn.

2. Claims 6 and 8

Existing claim 6, as well as new claim 8, recite that the conduit means and the microwave waveguides define separate paths whereby the hot gas and microwave energy do not mix prior to entering the oven cavity. This feature is advantageous for multiple reasons, including reducing (if not eliminating) grease build-up in the waveguides which may interfere with microwave distribution into the oven cavity. Such arrangement clearly distinguishes the teachings of both the Smith and the Hurley patents, in which the hot gas and microwave energy mix prior to entering the oven cavity. Accordingly, separate basis exists for allowing claims 6 and 8 over the references of record.

Conclusion

Applicant requests that the Examiner allow claims 1-3, 6, and 8 and that a patent containing these claims issue in due course.

Respectfully submitted,



Dean W. Russell
Reg. No. 33,452
Attorney for the Assignee

OF COUNSEL:

Kilpatrick Stockton LLP
1100 Peachtree Street
Suite 2800
Atlanta, Georgia 30309
(404) 815-6528